

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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| In the Matter of the Application of San Diego Gas & Electric Company (U 902-E) for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project | Application 06-08-010 (Filed August 4, 2006) |
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**PHASE I DIRECT TESTIMONY
OF DAVID HOGAN
ON BEHALF OF CONSERVATION GROUPS**

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Dated: June 1, 2007

Critical environmental concerns that should inform the CEQA/NEPA process

Testimony of David Hogan, Center for Biological Diversity

I am a Conservation Manager for the Center for Biological Diversity where I have been employed since 1993. I have worked as an environmental policy advocate since 1989. My resume is included as Attachment A.

A draft environmental impact report and environmental impact statement (“EIR/EIS”) on the proposed “Sunrise Powerlink” (“Powerlink”) transmission line project is anticipated to be released to the public in August. The purpose of my testimony is to highlight important environmental concerns and alternatives that should inform this CEQA/NEPA review and administrative legal proceedings for the Powerlink. This testimony is intended only to inform these proceedings by cataloging some potentially significant environmental impacts of the proposed Powerlink and alternatives. This testimony is not intended to provide conclusions on the actual environmental effects of the Powerlink or alternatives.

The Sunrise Powerlink is a 150 mile long high voltage transmission line proposed for construction by San Diego Gas and Electric (“SDG&E”) from the Imperial Valley near El Centro to the north coastal City of San Diego. Preferred and alternative routes traverse many important natural and rural lands. The scale of the proposed project, project alternatives, and its intended purpose implicate local, regional, and global environmental concerns. The potential environmental impacts of the routes under consideration include serious pollution issues, land use issues, and the fate of imperiled species and habitats. Additional environmental concerns are likely to be revealed in the process of preparing the draft EIR/EIS. These proceedings should include consideration of at least the following potential issues of concern:

1. Environmental analysis may be overly focused on long-distance transmission alternatives

- a. Powerlink “Basic Project Objectives” may not comply with laws comprising California’s loading order, the California Renewables Portfolio Standard Program (SB 1078), and laws to reduce global warming, including the California Global Warming Solutions Act of 2006 (AB 32) and Executive Order S-3-05.

There appears to be a need for a thorough analysis of whether the Powerlink is consistent with state and federal energy and environmental objectives, including at least the following:

- Application of California’s loading order
- Application and advancement of the California Renewable Portfolio Standard
- Application and advancement of California laws to reduce global warming, and
- Application and advancement of state and federal laws and regulations to avoid, minimize, and mitigate any environmental harm

There appears to be a need for a thorough discussion of how each particular Powerlink alternative would uphold and advance the public interest as reflected in California’s loading order, Renewable Portfolio Standard, global climate change laws, and other environmental law.

- b. Local San Diego energy generation alternatives to the Powerlink may not be adequately considered – expanded efficiency and conservation programs; expanded commercial and residential rooftop solar applications; improvement of local transmission efficiency; and, as a last resort, construction of local new, cleaner burning conventional power plants.
- c. There appears to be a need for a thorough evaluation of the potential availability of additional transmission capacity on the existing Southwest Powerlink following expiration of California / Sempra Energy contracts and/or increased local San Diego energy savings or production.

- d. It appears that analysis of the alternatives may benefit from consideration of how technological advances and the commercial availability of new products in the next five years may allow our energy needs to be met in a cleaner, safer, and environmentally friendlier manner (e.g. California's Million Solar Roof Initiative).
2. Conclusions that the Powerlink would promote renewable energy may be inaccurate.
- a. Stirling Energy Systems' ("SES") project may not be technologically or commercially viable, and may not deliver promised power in the time claimed by SES and SDG&E. To the extent the Powerlink is justified by the Stirling Energy Systems' project, there appears to be a need for a thorough and independent evaluation of the feasibility of this source. There also appears to be a need for full consideration of any environmental impacts resulting from use of the Powerlink to transmit non-renewable energy in the event that this source is not feasible.
 - b. Geothermal energy development may be limited by natural barriers (e.g. the location of a large area of potential geothermal energy underneath the Salton Sea) and by market forces. To the extent the Powerlink is justified by geothermal projects, there appears to be a need for a thorough and independent evaluation of the feasibility of this source. There also appears to be a need for full consideration of any environmental impacts resulting from use of the Powerlink to transmit non-renewable energy in the event that this source is not feasible.
 - c. The preferred Powerlink route does not appear to be located near planned wind energy sites. To the extent the Powerlink is justified by wind energy development, there appears to be a need for a thorough and independent evaluation of the feasibility of this source. There also appears to be a need for full consideration of any environmental impacts resulting from use of the Powerlink to transmit non-renewable energy in the event that this source is not feasible.

- d. As proposed, the Powerlink does not appear to provide assurances that it will be used to deliver renewable energy as promised by SDG&E. In one example, the Minnesota Utilities Commission has required assurances that a transmission line deliver renewable energy. (Please see Attachment B.)
3. The Powerlink may encourage existing and expanded fossil-fuel energy generation, especially in Mexico.
- a. The Powerlink may encourage existing and expanded greenhouse gas emissions thereby contributing to global climate change. Encouragement and expansion of greenhouse gas emissions may in turn frustrate California law limiting such emissions, among others.
 - b. There appears to be a need for disclosure of the Powerlink's direct and indirect net contribution to greenhouse gas emissions from all sources, and incorporation of feasible mitigation measures and alternatives to reduce this impact. Attachments C and D are examples of binding agreements containing mitigation requirements for energy efficiency, use of commercially viable renewable energy sources, and pollution reduction.

Sources of greenhouse gas emission that appear to warrant evaluation include all emissions associated with construction, operation, and maintenance of the project. This evaluation should include a projection of the sources of the power to be transmitted by the project, and an analysis of how these projected sources may contribute to greenhouse gas emissions. For example, if the project could purchase a portion of the power transmitted from coal- or natural gas-fired plants, there appears to be a need for disclosure of this information and a review of the life cycle carbon emission consequences of these fuels.

- c. There appears to be a need for an evaluation and comparison of each project alternative's potential range of net contributions to greenhouse gas emissions.
- 4. The Powerlink could contribute to significant existing air quality problems in the Imperial Valley.
 - a. Powerlink contributions to Imperial Valley air quality problems could be compounded if energy transmitted on the line originates from fossil-fuel power plants.
 - b. Any fossil fuel plant energy generated for the Powerlink could negatively impact nearby communities, human health, and the environment.
 - c. Fossil-fuel energy generating plants in Mexico are a particular concern as they may not include the same measures to minimize and mitigate pollution as those required at facilities located in the United States.
- 5. The Powerlink could significantly increase the risk of harm from wildfire to people and nature.
 - a. The Powerlink could significantly increase the risk of harm from wildfire through accidental ignitions from construction, aircraft collisions, bird collisions, downed lines, and illegal campfires, target shooting, hunting, and arson along and from access roads.
 - b. The Powerlink could significantly interfere with effective fire response.
 - c. Powerlink related wildfires could significantly harm biological resources if wildlife and plants are killed and if fire-induced disturbance of native vegetation results in conversion of native vegetation to exotic invasive plant communities.

- d. Powerlink related wildfires could also cause harm to people if they are injured or killed, property is destroyed, or insurance is revoked or denied or rates increased.
6. The Powerlink could significantly harm the globally important Anza-Borrego Desert State Park.
- a. The Powerlink could require the reclassification of state wilderness in Anza-Borrego Desert State Park to a less protective classification.
 - b. The Powerlink could conflict with, and require amendment of the Anza-Borrego Desert State Park General Plan irrespective of whether wilderness is reclassified.
 - c. Reclassification of wilderness and/or amendment of the Anza-Borrego Desert State Park General Plan could require lengthy proceedings after a decision on the Powerlink by the California Public Utilities Commission.
7. The Powerlink could significantly harm many other important protected natural lands. (Please see Map, Attachment E)
- a. SDG&E's preferred Powerlink route could directly impact at least fifteen protected natural land areas including U.S. Bureau of Land Management Areas of Critical Environmental Concern and County and City of San Diego parks and open space under the San Diego Multiple Species Conservation Plan. (Please see Attachment F.)
 - b. Alternative Powerlink routes could directly impact twenty-two protected natural land areas.
 - c. Preferred and alternative Powerlink routes could indirectly impact sixty-five or more protected natural land areas.

8. The Powerlink could significantly reduce the regulatory viability and integrity of the San Diego Multiple Species Conservation Plan and other regional habitat conservation plans.
 - a. The Powerlink could significantly harm the San Diego Multiple Species Conservation Plan (“San Diego MSCP”) and other plans if it bisects protected natural lands that were established for the conservation of species covered by the plans and as mitigation for development elsewhere. (Please see Map, Attachment G.)
 - b. The processing of development projects that received development approval from the San Diego MSCP and other regional habitat conservation plans could be impaired if the Powerlink reduces the viability and integrity of the plans.
 - c. There appears to be a need for a review of documents for the San Diego MSCP and other habitat conservation plans to determine whether the Powerlink is a compatible use of lands set aside for protection under these plans.
9. The Powerlink could significantly harm biological resources.
 - a. The Powerlink could harm biological resources in the following ways, among others:
 - destruction and fragmentation of habitat
 - disturbance of wildlife
 - increased risk of wildfire
 - killing birds and bats
 - facilitating the spread of harmful invasive exotic plant species, and
 - increased use by harmful off-road vehicles
 - b. The Powerlink could significantly harm birds and bats, including state and federally listed and protected migratory species, if they collide with transmission lines, towers, and any guy- wires, or if they are electrocuted.
 - c. The Powerlink could significantly facilitate the spread of invasive, exotic plant species, thereby harming biological resources and increasing the risk of wildfire. Exotic invasive grasses and other plants can be spread through disturbance of native

vegetation and soils. Several Powerlink construction and maintenance activities could promote proliferation of invasive exotic plants; destruction of native vegetation and disturbance of soils; Powerlink related wildfire; and increased access by people on Powerlink roads.

Exotic invasive plants can significantly harm biological resources if they provide fine fuels which in turn increase the risk and expansion of wildfire, and when they reduce the diversity and numbers of plant and wildlife species, including state and federally listed species, among other effects.

- d. The Powerlink could significantly harm imperiled reptiles and other species (e.g. Flat-tailed Horned Lizards, Desert Tortoises, snakes, and others) by providing perches to ravens and other generalist predator bird species thereby improving their predatory advantage over smaller wildlife.
- e. The Powerlink and associated access roads could significantly harm some birds, mammals, reptiles and others by interfering with or blocking their movement or migration.
- f. Noise from construction, maintenance, and operation of the Powerlink could disrupt the behavior of Peninsular bighorn sheep and other sensitive wildlife species.
- g. The Powerlink could significantly harm the following imperiled vegetation communities, among others:

Native grasslands
Oak woodlands
Riparian forests
Wetlands

Coastal Sage Scrub
Maritime Succulent Scrub
Southern Maritime Chaparral
Vernal Pools

- h. The Powerlink could significantly harm the following imperiled species, among others:

| | |
|-----------------------------|--------------------------|
| Arroyo Toad | San Diego Fairy Shrimp |
| San Sebastian Leopard Frog | Peninsular Bighorn Sheep |
| Desert Tortoise | Stephen's Kangaroo Rat |
| Southwestern Pond Turtle | Del Mar Manzanita |
| Flat-tailed Horned Lizard | Cuyamaca Cypress |
| Desert Pupfish | Del Mar Mesa Sand Aster |
| Bald Eagle | Encinitas Baccharis |
| Burrowing Owl | Lakeside Ceanothus |
| California Gnatcatcher | Little Mousetail |
| California Spotted Owl | Nuttall's Scrub Oak |
| Coastal Cactus Wren | San Diego Button Celery |
| Golden Eagle | San Diego Mesa Mint |
| Least Bell's Vireo | San Diego Thorn Mint |
| Hermes Copper Butterfly | Spreading Navarretia |
| Quino Checkerspot Butterfly | Willowy Monardella |

10. Visual resources could be significantly harmed by the Powerlink

- a. The Powerlink could significantly harm visual resources by imposing transmission towers, long loops of wire, and substations on natural and rural landscapes. Impacted areas could include but are not limited to:

- Anza-Borrego Desert State Park
- Dozens of other protected natural lands
- The scenic Santa Ysabel and San Felipe valleys
- The Interstate 8 travel corridor through the Cleveland National Forest
- Scenic highway corridors along highways 78 and S2

11. Construction, maintenance, and use of Powerlink access roads could significantly harm sensitive resources.

- a. Roads associated with the Powerlink could harm biological, archeological, historic, and cultural resources if they facilitate increased access by off-road vehicles. Off-road vehicles ("ORVs") can harm biological resources if vehicle noise disturbs animals or if riders run over animals. ORVs can also cause harm if they leave roads to enter adjacent natural land, thereby disturbing soils and crushing native vegetation,

both of which in turn can facilitate the spread of exotic invasive plants. ORVs and riders can also harm archeological, historic, and cultural resources in the following ways among others:

- If they disturb delicate archeological sites
 - If ORV riders illegally collect artifacts
 - If riders graffiti or conduct target practice on cultural rock features
 - If riders vandalize historical structures
- b. Construction and maintenance of the Powerlink could harm sensitive archeological, historic, and cultural sites if earthmoving for new pads or access roads disturbs any sites. Powerlink access roads could increase human use in sensitive areas, thereby increasing the risk of artifact theft or destruction.

12. The Powerlink could significantly harm nature dependent recreational and educational opportunities

- a. New transmission towers and other Powerlink features could reduce the ability of people today to experience the views and features experienced long ago by indigenous people, early explorers, and settlers, thereby reducing our ability to understand historical cultural landscapes.
- b. Construction and operation of the Powerlink could significantly increase noise levels in natural and rural areas frequented by people seeking peace and quiet. Increased noise could significantly impact the very quiet, natural character of Anza-Borrego Desert State Park and many other protected natural lands. Many visitors to Anza-Borrego Desert State Park and other protected natural lands come seeking serenity and natural solitude, yet both experiences could be significantly harmed by the Powerlink.

- c. The Powerlink could significantly harm recreational and educational experiences if it reduces the availability and aesthetic values of such experiences. Transmission towers, lines, access roads, and substations could reduce the recreational value of areas within sight of such facilities. The presence of Powerlink facilities in parks and public lands could reduce use of these areas by California residents and visitors who travel to these lands for a respite from city life.
- d. Specific impacts could include those to recreational users of the following areas among others:
- Tamarisk Grove Campground
 - Yaqui Well Primitive Camp
 - Angelina Spring
 - Nude Wash
 - Old Kane Spring Road
 - Pacific Crest Trail
 - California Riding and Hiking Trail
- e. The presence of the Powerlink could significantly interfere with public appreciation and education of historically significant areas including the Pedro Fages trail, Juan Bautista de Anza trail, Picacho-San Diego trail, Stephen Kearny's 1846 route, and the Butterfield Overland Stage route.
- f. Experiences by organized recreation and education groups could also be harmed, including those by school groups, Boy and Girl Scout programs, and outdoor recreation organizations, such as the Sierra Club and hunting and fishing clubs.
13. The Powerlink could significantly harm watersheds and water quality by increasing erosion from maintenance of easements and access road usage.

I declare under penalty of perjury this testimony and attachments are, to the best of my knowledge, true and correct.

 6/1/07
Date

David Hogan
Conservation Manager
Center for Biological Diversity
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San Diego CA 92167

ATTACHMENT A

David Hogan
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San Diego CA 92167
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Professional Experience and Position Highlights

Center for Biological Diversity –

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|---|--------------------|
| Conservation Manager | 2004 - 2006 |
| Urban Wildlands Program Director | 1994 - 2004 |
| Urban Wildlands / Rivers Program Coordinator | 1993 - 1995 |
| Public Lands Conservation Specialist | |

The Center for Biological Diversity is a non-profit conservation organization established to carry out effective endangered species and ecosystem advocacy through application of science, policy and law.

- ◆ Directed Urban Wildlands Program, including five staff in conservation advocacy for endangered species and habitats on private land in California and Arizona with an emphasis on compliance of development with the California Environmental Quality Act, and oversight of implementation of regional habitat conservation plans.
- ◆ Managed rivers and urban wildlands campaigns to improve conservation status of southwestern rivers, with a focus on the Colorado River and delta and Southern California steelhead and improvement of several regional habitat conservation plans.
- ◆ Responsible for all aspects of effective conservation advocacy, including project management and strategy, grassroots organizing and leadership, public education, policy review and comment, media, legal research, analysis and litigation, and lobbying.
- ◆ Responsible for general knowledge and application of policy and law, including the California Environmental Quality Act, National Environmental Policy Act, state and federal Endangered Species acts, state Natural Communities Conservation Planning Act, regional habitat conservation planning, and various agency's conservation regulations.
- ◆ Regularly produce written documents, including highly technical legal, policy and science documents, as well as public education documents.
- ◆ Serve and have served on public advisory boards related to conservation issues – San Diego Regional Airport Authority Public Working Group; Pima County Multiple Species Conservation Plan working group; and [San Diego] North County Multiple Species Conservation Plan working group.
- ◆ Assisted in establishing and served on the boards or as a representative decision maker of several coalitions – the Coalition for Sonoran Desert Protection; the Southern California Steelhead Coalition; San Diego Multiple Species Conservation Plan coalition;

and Colorado River conservation coalition. In coalitions and elsewhere, work to build conservation community unity around specific issues.

- ◆ Routinely represent the Center in public speaking engagements on organization background , basic conservation, public and private land conservation issues, etc.
- ◆ Carry out extensive public relations and interactions with media.
- ◆ Regularly interact with scientists and review scientific documents to maintain strong working knowledge of conservation biology and related issues, especially as applied to specific species and ecosystems in harms way.

San Diego Biodiversity Project – Director

1989 - 1993

The San Diego Biodiversity Project was a non-profit conservation organization dedicated to conservation advocacy for San Diego County endangered species and ecosystem, and served as a clearing house of conservation biology information to decision makers.

- ◆ Responsible for all organizational activities, including organizational infrastructure and fund raising, project management and strategy, public education, policy review and comment, media, legal research and lobbying.
- ◆ Responsible for review of adequacy of biological resource analyses in dozens of Environmental Impact Reports and site-checks.
- ◆ Served to facilitate information exchange between scientists and decision makers to improve conservation.

Additional Experience and Information

- ◆ Personally responsible for more than two dozen formal petitions seeking Endangered Species Act protections for imperiled species.
- ◆ Lead-author of a published and peer-reviewed, quantitative, scientific description of an imperiled native plant community with other vegetation experts – “Southern Maritime Chaparral”, *Fremontia* 24(4): 3-7, 1996.
- ◆ Served on several conservation organization boards including the Executive Committee of the San Diego Chapter of the Sierra Club (2004 – 2005), the Political Committee of the San Diego Chapter of the Sierra Club (2004 – 2005), and the Board of the San Diego Chapter of the League of Conservation Voters (2005 – 2006).
- ◆ Served as spokesperson to major media outlets, including the New York Times, Wall Street Journal, Christian Science Monitor and Yuma Daily Sun.
- ◆ Assisted in the design of a vernal pool wetlands restoration project on then-Navel Air Station Miramar in San Diego with Dr. Ellen Bauder of San Diego State University.
- ◆ Conducted extensive surveys of San Diego fairy shrimp and vernal pools under direction of Dr. Marie Simovich of the University of San Diego.

ATTACHMENT B

Attachment B can be found at:

[https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=1473345\)](https://www.edockets.state.mn.us/EFiling/ShowFile.do?DocNumber=1473345)

ATTACHMENT C

AGREEMENT

This Settlement Agreement is executed this 16th day of November, 2006, by and between the City of Springfield, Illinois, a municipal corporation, and the Sierra Club (collectively, the "Parties"), as defined below.

WITNESSETH

WHEREAS, the City of Springfield (the "City") owns and operates an electric generating plant known as the Dallman Generating Station and located at 3100 Stevenson Drive in Springfield, Illinois;

WHEREAS, the City has proposed to construct a new 250 MW coal-fired electrical generating unit ("Dallman Unit 4" or "Project") at the Dallman Generating Station;

WHEREAS, the Illinois Environmental Protection Agency ("IEPA") has, on August 10, 2006, issued to the City of Springfield a Prevention of Significant Deterioration air permit for the proposed Dallman Unit 4, known as PSD Permit No. 16712OAAO ("PSD Permit");

WHEREAS, on September 12, 2006, the Sierra Club filed with the United States Environmental Appeals Board a Petition for Review seeking review of the conditions of the PSD Permit issued to the City for the Project;

WHEREAS, the City proactively sought to address concerns raised by Sierra Club in its Petition for Review, and to promote environmental stewardship, through the passage of the following City Ordinances: 721-11-06, 722-11-06 and 723-11-06;

WHEREAS, the City also seeks to address the Sierra Club's concerns by entering into this Settlement Agreement such that the Project may move forward without delay.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained in this Agreement and intending to be legally bound, the Parties agree as follows:

AGREEMENTS

Section I. City of Springfield Covenants

- a. Request to Modify the Permit. No later than June 30, 2010, the City shall file with IEPA an application for a new or modified PSD permit for Dallman Unit 4, and an application to modify its Clean Air Act Permit Program ("CAAPP") permit, both consistent with Attachment 1 to this Agreement and as found within specific provisions of Ordinance No. 723-11-06.
- b. Promotion of Renewable Energy to Include Wind Power. On November 8, 2006, the Council of the City of Springfield passed Ordinance No. 721-11-06, *An Ordinance Directing the City of Springfield Office of Public Utilities to Promote Renewable Energy to Include Wind Power*. Specifically, the Ordinance directs the City, among other things, to enter into a Power Purchase Agreement for 120 MW of wind power capacity for a term of not less than ten years. The City agrees

to enter into a Power Purchase Agreement for 120 MW of wind power capacity as more fully described in Exhibit A to Ordinance No. 721-11-06 no later than 90 days from the effective date of this Agreement.

Section II. Sierra Club's Covenants

- a. Petition for Review. Within two days of City Council approval of this Agreement, Sierra Club shall cause to be filed with the United States Environmental Appeals Board a Motion to Withdraw with Prejudice, its Petition for Review filed on September 12, 2006, in *In the Matter of the City of Springfield, Appeal No. 06-08 (Application NO. 04110050, PSD Permit No. 16712OAAO)*.
- b. Dallman Permit and Modification. Provided that the City files with IEPA an application for a new or modified PSD permit for Dallman Unit 4, and an application to modify its CAAPP permit as described in Section 1 of this Agreement, the Sierra Club agrees that it shall not cause to be filed a petition objecting to, nor will it seek review of, the permit modifications or new PSD permit. Sierra Club also agrees that it shall not cause to be filed a petition objecting to, nor will it seek review of, any aspect of PSD Permit No. 16712OAAO.
- c. Other Challenges. Provided that the City complies with each of the requirements, including the timelines hereto, Sierra Club agrees not to commence any legal action challenging any efficiency projects the City may commence pursuant to this Settlement Agreement at Dallman Units 1- 3.

Section III. Miscellaneous

- a. Remedies. The Parties agree that in no instance will any Party or individual be responsible or liable for monetary damages as a result of any alleged breach or breach of this Settlement Agreement. The Parties acknowledge and agree that damages are not available as a remedy in the event the obligations of this Settlement Agreement are breached. The Parties agree that damages would not be an adequate remedy for noncompliance with this Settlement Agreement, and that no adequate remedy at law exists for noncompliance with the terms of this Settlement Agreement. Accordingly, the Parties expressly agree that an award of equitable relief would be an appropriate remedy for a breach of the obligations under this Settlement Agreement, provided the reviewing court has followed standard procedures for issuing injunctive relief. The Parties also agree that should they commence any legal action to enforce this Settlement Agreement that they will not seek any remedies except specific performance.
- b. Relationship. This Settlement Agreement does not create any legal relationship between or among the Parties. Thus, each Party is responsible only for its own actions and this Settlement Agreement is not intended to and does not in any manner create rights, duties, liabilities or legal consequences for the Parties except as expressly provided herein. No joint venture, agency, partnership or

other fiduciary relationship will be deemed to exist or arise between or among the Parties as a result of this Settlement Agreement.

- c. Force Majeure. Neither Party will be deemed to have breached this Settlement Agreement or trigger a right to terminate this Settlement Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to natural disasters, wars, insurrections and/or any other cause beyond the reasonable control of the Party whose performance is affected.
- d. Notice. Unless otherwise provided herein, whenever notifications, submissions, or communications are required by this Settlement Agreement, they will be made in writing and addressed as follows:

Bruce Nilles, Midwest Regional Representative
Sierra Club Midwest Clean Energy Campaign
122 W. Washington Avenue, Suite 830
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bruce.nilles@sierraclub.org

Jack Darin, Chapter Director
Sierra Club – Illinois Chapter
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Chicago, IL 60601
jack.darin@sierraclub.org

Regulatory Affairs Manager
City Water Light & Power
800 E. Monroe Street
Springfield, IL 60157

Corporation Counsel
City of Springfield
800 E. Monroe Street, Room 313
Springfield, IL 62701

All notifications, communications or submissions made pursuant to this Settlement Agreement will be sent in electronic (pdf) format unless the size or other characteristics of the materials requires the submission of a hard copy. If hard copies are submitted, they will be submitted by (a) two-day overnight mail or delivery service; or (b) certified or registered mail, return receipt requested. All notifications, communications and transmissions (a) sent by overnight, certified or registered mail will be deemed submitted on the date they are postmarked, or (b) sent by overnight delivery service will be deemed submitted on the date they are delivered to the delivery service. All notifications, communications, and submissions made by electronic means will be deemed submitted on the date that the transmitting Party receives written acknowledgment of receipt of such transmission.

- e. Term. The provisions of this Settlement Agreement will become effective upon the dismissal by the United States Environmental Appeals Board of the appeal of the City's PSD Permit No. 16712OAAO and closing of the Appeal Docket, and shall expire December 31, 2015. If the Sierra Club is, at that time, challenging the City's failure to comply with one or more of the terms of this agreement, those terms and any related terms shall not expire at that time.
- f. Termination. This Settlement Agreement may be terminated at any time upon mutual written agreement of the Parties.
- g. Modification. This Settlement Agreement may be amended or modified in writing by mutual agreement of the Parties.
- h. Choice of Law. This Settlement Agreement will be construed and governed in all respects by the laws of the State of Illinois, without regard to the principles of conflicts of law. Any dispute arising over the terms and conditions contained herein will be resolved in a court of competent jurisdiction located in Sangamon County, Illinois.
- i. Dispute Resolution. Prior to commencing any legal action to enforce this Settlement Agreement the Parties agree to: a) notify the allegedly offending Party in writing; and b) wait at least thirty days and during that period undertake all reasonable efforts to resolve the matter short of litigation.
- j. Successors Bound. This Settlement Agreement will be binding upon the successors and assigns of the City and upon the successors and assigns of the Sierra Club.
- k. Authority. Each of the signatories to this Settlement Agreement affirms that he or she is authorized to enter into the terms and conditions of this Settlement Agreement. Each party hereto may validly execute this document by facsimile signature or in counterparts, each of which will constitute an original and all of which will constitute one and the same Agreement.

IN WITNESS WHEREOF, this Settlement Agreement has been executed by the City of Springfield, Illinois, a municipal corporation, and the Sierra Club and is effective as of the date set forth above.



For City of Springfield, d/b/a City Water
Light & Power

Name: The Honorable Timothy J. Davlin
Title: Mayor, City of Springfield

For the Sierra Club

Name: Verena Owen
Title: Chair, Illinois Clean Air Campaign

IN WITNESS WHEREOF, this Settlement Agreement has been executed by the City of Springfield, Illinois, a municipal corporation, and the Sierra Club and is effective as of the date set forth above.

For City of Springfield, d/b/a City Water
Light & Power

Name: The Honorable Timothy J. Davlin
Title: Mayor, City of Springfield

For the Sierra Club

Name: Verena Owen
Title: Chair, Illinois Clean Air Campaign

ATTACHMENT 1

EMISSIONS LIMITATIONS FOR DALLMAN UNITS 1-4

NOx.

The System emissions limit for NOx will be 0.12 lb/MMBtu between Dallman Unit 4 Online and December 31, 2012, and 0.07 lb/MMBtu beginning January 1, 2013.

SO2.

The System emissions limit for SO2 will be 0.24 lb/MMBtu between Dallman Unit 4 Online and December 31, 2012, 0.1 lb/MMBtu beginning January 1, 2013.

The System limits for SO2 apply at all times, unless during the period between Dallman Unit 4 Online and December 31, 2010, CWLP finds that meeting the above SO2 System emission limits requires measures on the Dallman Unit 3 scrubber beyond those recommended by the manufacturer and according to standard industry practice.

Mercury.

In addition to other requirements regulating mercury emissions in the permit, on a 12-month rolling average basis beginning with Dallman Unit 4 Online, the emissions limit for mercury averaged across Dallman Units 1-4 shall be 0.008 lbs/GWh or 90% reduction of the mercury in the coal. If a trading program for mercury is established, CWLP shall not to sell any mercury credits generated by its mercury reduction.

EMISSION LIMITATIONS FOR DALLMAN UNIT 4

Mercury.

On a 12-month rolling average basis, 0.008 lbs/GWh or 90% reduction from input mercury. If a trading program for mercury is established, CWLP shall not sell any mercury credits generated by its mercury reduction.

Total PM.

0.020 lb/MMBtu on a three-hour block average. The limit for total PM may be lowered (no lower than 0.018 lb/MMBtu) if the IEPA, after considering the results of any evaluation performed by CWLP, finds that Dallman 4 can and should be able to consistently comply with such limits without unreasonable consequences.

PM Filterable.

0.010 lb/MMBtu on a three-hour block average. If CWLP fails to comply with this emissions limit despite using all reasonable efforts during the first twenty-four months of operation post Dallman Unit 4 Online, CWLP shall petition IEPA for a higher limit, but no higher than 0.012 lb/MMBtu on a three-hour block average.

Sulfuric Acid Mist.

0.004 lb/MMBtu on a three-hour block average.

Opacity.

10%.

NOx.

0.05 lb/MMBtu, on a 30-day rolling average, exclusive of start-up, shut-down, and malfunction; 0.06 lb/MMBtu on a 30-day rolling average, inclusive of start-up, shut-down, and malfunction.

SO₂.

99% removal on a 30-day rolling average, exclusive of start-up, shut-down, and malfunction; 98% removal on a 30-day rolling average, inclusive of start-up, shut-down, and malfunction. Removal efficiency shall be measured across the scrubber.*

Lakeside Station Shut-Down.

CWLP's Lakeside Generating Station will be shut-down upon receipt of results indicating Dallman Unit 4 complies with the permitted emissions limits.

ATTACHMENT D

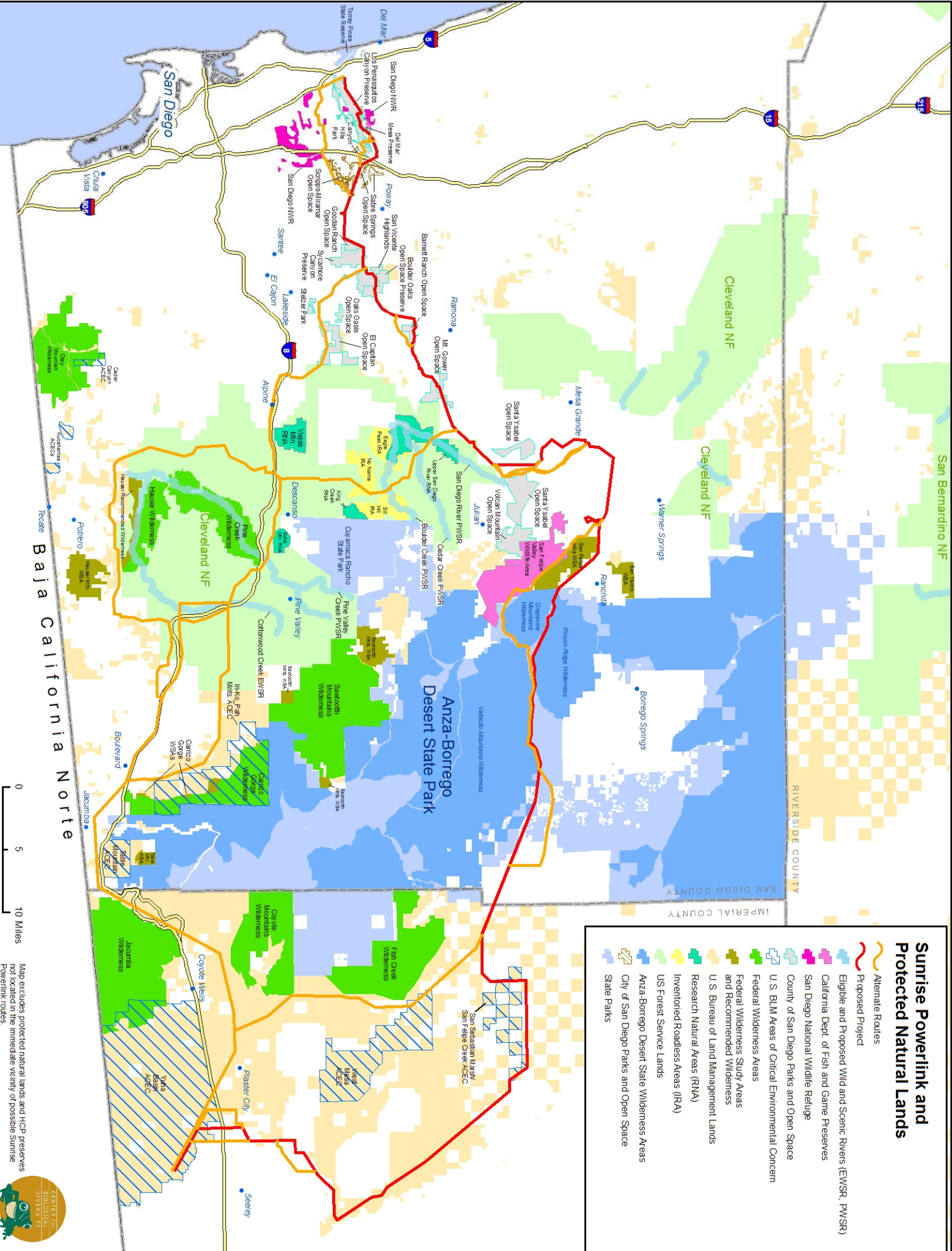
Attachment D can be found at:

http://missouri.sierraclub.org/thb/alerts/announcements/20070319_download.html

ATTACHMENT E

Sunrise Powerlink and Protected Natural Lands

- Alternate Routes
- Proposed Project
- Eligible and Proposed Wild and Scenic Rivers (EWSR, PWSR)
- California Dept. of Fish and Game Preserves
- San Diego National Wildlife Refuge
- County of San Diego Parks and Open Space
- U.S. BLM Areas of Critical Environmental Concern
- Federal Wilderness Areas
- Federal Wilderness Study Areas and Recommended Wilderness
- U.S. Bureau of Land Management Lands
- Research Natural Areas (RNA)
- Inventoried Roadless Areas (IRA)
- US Forest Service Lands
- Anza-Borrego Desert State Wilderness Areas
- City of San Diego Parks and Open Space
- State Parks



Map excludes protected natural lands and HCP preserves not located in the immediate vicinity of possible Sunrise Powerlink routes.



ATTACHMENT F



Protected Natural Lands Impacted by the Sunrise Powerlink Preferred and Alternative Routes

PREFERRED ROUTE DIRECTLY IMPACTED LANDS

California Department of Parks and Recreation

- Anza-Borrego Desert State Park Pinyon Ridge Wilderness
- Other Anza-Borrego Desert State Park

City of San Diego

- Los Penasquitos Canyon Preserve
- Sabre Springs Open Space

County of San Diego

- Barnett Ranch Open Space
- Boulder Oaks Open Space
- Los Penasquitos Canyon Preserve
- Mt. Gower Open Space
- San Vicente Highlands Open Space
- Sycamore Canyon Preserve

U.S. Bureau of Land Management ("BLM")

- San Sebastian Marsh/San Felipe Creek Area of Critical Environmental Concern
- Yuha Basin Area of Critical Environmental Concern
- Other BLM land

U.S. Forest Service

- Cleveland National Forest land

Vista Irrigation District

- Warner's Ranch

ALTERNATE ROUTE DIRECTLY IMPACTED LANDS

California Department of Parks and Recreation

- Anza-Borrego Desert State Park Grapevine Mountains Wilderness
- Other Anza-Borrego Desert State Park

California Department of Fish and Game

- San Felipe Valley Wildlife Area

California Wild Heritage Act of 2007 (S. 493, H.R.860)

- Boulder Creek proposed Wild and Scenic River
- Cedar Creek proposed Wild and Scenic River
- Pine Creek proposed Wild and Scenic River
- San Diego River proposed Wild and Scenic River

City of San Diego

- Los Penasquitos Canyon Preserve
- Sabre Springs Open Space
- Scripps-Miramar Open Space

County of San Diego

- El Capitan Open Space
- Los Penasquitos Canyon Preserve
- Santa Ysabel Open Space Preserve East
- San Vicente Highlands Open Space

U.S. Bureau of Land Management

- Jacumba National Cooperative Land and Wildlife Management Area
- McCain Valley National Cooperative Land and Wildlife Management Area
- Yuha Basin Area of Critical Environmental Concern
- West Mesa Area of Critical Environmental Concern
- Other BLM land

U.S. Fish and Wildlife Service

- San Diego National Wildlife Refuge

U.S. Forest Service

- Cottonwood Creek eligible Wild and Scenic River
- No-Name Inventoried Roadless Area
- Upper San Diego River Research Natural Area
- Other Cleveland National Forest land

PREFERRED AND ALTERNATE ROUTE INDIRECTLY IMPACTED LANDS

California Department of Fish and Game

- Del Mar Mesa Preserve
- San Felipe Valley Wildlife Area

California Department of Parks and Recreation

- Anza-Borrego Desert State Park Grapevine Mountains Wilderness
- Anza-Borrego Desert State Park Pinyon Ridge Wilderness
- Anza-Borrego Desert State Park Vallecito Mountains Wilderness
- Other Anza-Borrego Desert State Park
- Cuyamaca Rancho State Park
- Torrey Pines State Reserve
- Torrey Pines State Reserve Extension

California Wild Heritage Act of 2007 (S. 493, H.R.860)

- Boulder Creek proposed Wild and Scenic River
- Cedar Creek proposed Wild and Scenic River
- Pine Creek proposed Wild and Scenic River
- San Diego River proposed Wild and Scenic River

City of San Diego

- Carmel Mountain Preserve
- Del Mar Mesa Preserve
- Los Penasquitos Canyon Preserve
- Sabre Springs Open Space
- Scripps-Miramar Open Space

County of San Diego

- Barnett Ranch Open Space
- Boulder Oaks Open Space
- El Capitan Open Space
- Goodan Ranch Open Space
- Los Penasquitos Canyon Preserve
- Mt. Gower Open Space
- Oak Oasis Open Space
- Santa Ysabel Open Space Preserve East
- Santa Ysabel Open Space Preserve West
- San Vicente Highlands Open Space
- Seltzer Park
- Sycamore Canyon Preserve
- Volcan Mountain Open Space Preserve

U.S. Bureau of Land Management

- Carrizo Gorge Wilderness
- Carrizo Gorge Wilderness Study Area
- Cedar Canyon Area of Critical Environmental Concern
- Coyote Mountains Wilderness
- Fish Creek Wilderness
- Hauser Mountain Wilderness Study Area
- In-Ko-Pah Mountainis Area of Critical Environmental Concern
- Jacumba National Cooperative Land and Wildlife Management Area
- Jacumba Wilderness
- Kucahamaa Area of Critical Environmental Concern
- McCain Valley National Cooperative Land and Wildlife Management Area
- Otay Mountain Wilderness
- San Felipe Hills Wilderness Study Area
- San Sebastian Marsh/San Felipe Creek Area of Critical Environmental Concern
- San Ysidro Wilderness Study Area
- Sawtooth Mountain Wilderness
- Sawtooth Mountain Wilderness Study Area
- Table Mountain Area of Critical Environmental Concern
- Table Mountain Wilderness Study Area
- Yuha Basin Area of Critical Environmental Concern
- West Mesa Area of Critical Environmental Concern
- Other BLM land

U.S. Fish and Wildlife Service

- San Diego National Wildlife Refuge

U.S. Forest Service

- Cedar Creek proposed WSR
- Cottonwood Creek eligible WSR
- Eagle Peak Inventoried Roadless Area
- Guatay Mountain RNA
- Hauser recommended Wilderness
- King Creek Research Natural Area
- No-Name Inventoried Roadless Area
- Pine Creek Wilderness
- Sill Hill Inventoried Roadless Area
- Upper San Diego River Research Natural Area
- Viejas Mountain RNA
- Other Cleveland National Forest lands

Vista Irrigation District

- Warner's Ranch

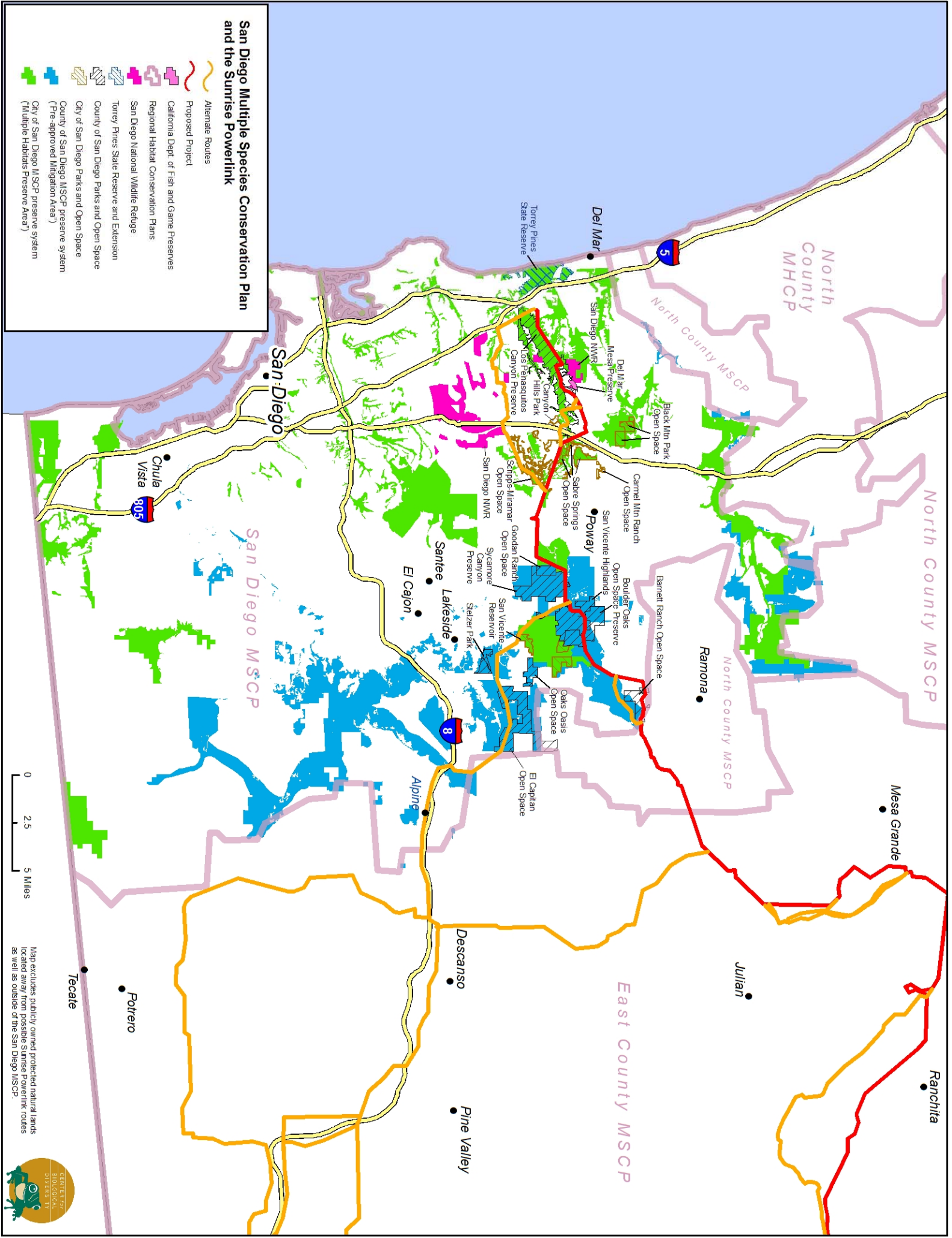
ATTACHMENT G

San Diego Multiple Species Conservation Plan and the Sunrise Powerlink

- Alternate Routes
- Proposed Project
- California Dept. of Fish and Game Preserves
- Regional Habitat Conservation Plans
- San Diego National Wildlife Refuge
- Torrey Pines State Reserve and Extension
- County of San Diego Parks and Open Space
- City of San Diego MSCP preserve system (Pre-approved Mitigation Area)
- City of San Diego MSCP preserve system (Multiple Habitats Preserve Area)



Map excludes publicly owned protected natural lands located away from possible Sunrise Powerlink routes as well as outside of the San Diego MSCP.



CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Assigned Commissioner and Administrative Law Judge's Scoping Memo and Ruling, I have served a true copy of "Phase I Direct Testimony of David Hogan" to all parties on the most recently updated service list for Application No. 06-08-010.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 1st day of June, 2007, at San Francisco, California.



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